

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

MAY 18, 2000

IN RE:)	
)	
PETITION FOR ARBITRATION OF THE)	DOCKET NO. 99-00948
INTERCONNECTION AGREEMENT BETWEEN)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
AND INTERMEDIA COMMUNICATIONS, INC.)	
PURSUANT TO SECTION 252(b) OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	

**ORDER ADOPTING PRE-HEARING OFFICER'S REPORT,
ACCEPTING ARBITRATION,
APPOINTING PRE-ARBITRATION OFFICER
AND DIRECTING MEDIATION**

This matter came before the Tennessee Regulatory Authority ("Authority") at the March 14, 2000 Authority Conference upon the Report and Recommendation of the Hearing Officer ("Report") relative to the petition of BellSouth Telecommunications, Inc. ("BellSouth") for arbitration of an interconnection agreement with Intermedia Communications, Inc. ("Intermedia") pursuant to Section 252 of the Federal Telecommunications Act of 1996 ("Petition").

BellSouth filed its Petition on December 7, 1999, and Intermedia responded on January 3, 2000. Because of a need to address certain procedural questions in advance of determining whether to accept the Petition, the Directors appointed a Pre-Hearing Officer at the January 25, 1999 Authority Conference. Gary Hotvedt, Counsel, acting as Pre-Hearing Officer, held the Pre-Hearing Conference on March 2, 2000. Counsel for BellSouth and Intermedia attended the Pre-

Hearing Conference. As a result of the Pre-Hearing Conference, the Pre-Hearing Officer issued the Report on March 6, 2000, which is attached hereto as Exhibit 1 and incorporated into this order by this reference. In the Report, the Pre-Hearing Officer concluded that the Petition was timely filed and was properly brought before the Authority. In addition, the Pre-Hearing Officer noted that the parties agreed to: 1) waive the statutory period for resolution of the issues; 2) participate in substantive mediation; and 3) file an updated joint matrix. The Pre-Hearing Officer concluded the Report by recommending that the Directors accept the Petition for arbitration, appoint arbitrators, appoint a pre-arbitration officer, and direct the parties to go forward with mediation under the auspices of the Authority.

At the March 14, 2000 Authority Conference, the Pre-Hearing Officer summarized the Report and the Directors determined that there were no objections to the Report. Thereafter, the Directors voted unanimously to accept the Report and Recommendation of the Pre-Hearing Officer.


IT IS THEREFORE ORDERED THAT:

1. The Report and Recommendation of the Pre-Hearing Officer issued on March 6, 2000, attached as Exhibit 1, is adopted and is incorporated in this Order as if fully rewritten herein;
2. The Directors shall serve as Arbitrators;
3. General Counsel or his designee is appointed to serve as the Pre-Arbitration Officer;
4. The parties are directed to enter into substantive mediation discussions at the direction of the Pre-Arbitration Officer and each party shall have a representative at the mediation

with the authority to make any decisions necessary to resolve the remaining issues; and

5. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order.



Melvin J. Malone, Chairman

H. Lynn Greer, Jr., Director

Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 6, 2000

IN RE:

PETITION FOR ARBITRATION OF
BELLSOUTH TELECOMMUNICATIONS, INC.
WITH INTERMEDIA COMMUNICATIONS, INC.
PURSUANT TO THE TELECOMMUNICATIONS
ACT OF 1996

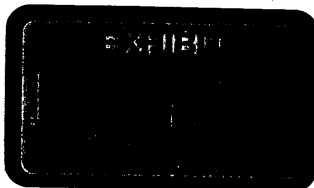
DOCKET NO.
99-00948

REPORT AND RECOMMENDATION OF PRE-HEARING OFFICER

Background

On December 7, 1999, BellSouth Telecommunications, Inc. ("BellSouth") filed a Petition for Arbitration of an Interconnection Agreement with Intermedia Communications, Inc. ("Intermedia") pursuant to Section 252(b) of the Act. The petition set forth the issues that BellSouth is presenting for arbitration. Intermedia responded to BellSouth's petition on January 3, 2000. At the January 25, 2000, Authority Conference, the Directors appointed a Pre-Hearing Officer to address procedural questions raised by the filing of the Petition for Arbitration. On February 23, 2000, the parties were notified of a March 2, 2000, Pre-Hearing Conference and were requested to file briefs to address the following issues:

- (1) How were the negotiations commenced; were they commenced pursuant to Section 252(b)(1) of the 1996 Act?
- (2) Is a request for negotiations under Section 252(b)(1) jurisdictional?
- (3) What is the actual history of the petition including the date that "triggers" the 135-160 day window?



4) What is the present posture of the negotiations?

BellSouth and Intermedia filed their briefs on February 29, 2000.

Pre-Hearing Conference

On February 23, 2000, the Executive Secretary sent a notice to schedule the Pre-Hearing Conference. The Pre-Hearing Conference was held on March 2, 2000, before Gary Hotvedt, Counsel, acting as Pre-Hearing Officer. The parties in attendance were:

BellSouth Telecommunications, Inc. – Guy Hicks, Esq., 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300; and telephonically, Langley Kitchings, Esq., 675 West Peachtree Street, Suite 4300, Atlanta, GA 30375.

Intermedia Communications, Inc. – Don Baltimore, Esq., 211 Seventh Avenue North, Suite 320, Nashville, TN 37219-1823; and telephonically, Enrico Soriano, Esq., 1200 Nineteenth Street, N.W., 5th Floor, Washington, D.C. 20036; Scott Sapperstein, Esq., and H. Edward Phillips, III, Esq., 3625 Queen Palm Drive, Tampa, FL 33619.

At the Pre-Hearing Conference on March 2, 2000, the Pre-Hearing Officer found, based upon the facts of this case as presented in both parties' briefs as well as the discussion at the Conference, that in accordance with Section III.B of the Amendment to the Interconnection Agreement, negotiations properly commenced on July 1, 1999. This meets the statutory requirements of Section 252 (b)(1) of the 1996 Act, therefore "July 1, 1999" triggered the 135-160 day window for Arbitration.

Due to the current status of negotiations, as well as similar proceedings in other states (approximately one-half of the issues raised in the Petition have been resolved), the parties proceeded to waive the nine (9) month statutory requirement for a decision. The parties further agreed to a mediation session, and will file an updated Joint Issues Matrix by March 9, 2000.

Discussion

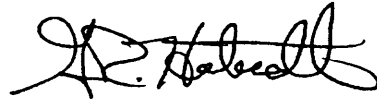
General procedure requires evaluation of Intermedia's response to the petition and a recommendation to the Directors regarding issues to be arbitrated and a procedural schedule to be set. The Directors, as Arbitrators, would rule on the issues to be arbitrated and the proposed schedule at a public conference. Therefore the Pre-Hearing Officer recommends that at this time, the Directors appoint a Pre-Arbitration Officer that is empowered to adopt issues, establish a procedural schedule, and make necessary preparations for arbitration.

The Pre-Hearing Officer recommends that the Directors order a mediation/negotiating meeting with the parties' respective negotiating teams and the Authority's representative or representatives. The negotiating teams should include a company representative with the authority to make any decisions necessary to resolve the remaining issues. This meeting will be geared toward ensuring that the parties have jointly identified the remaining issues and have a common understanding of those issues, as well as each other's position. Past experience has proven that, during this process, many issues can be resolved when the parties enter into "good faith" negotiations in the presence of a neutral party. A session of this type should shorten or perhaps eliminate the need for a costly time consuming arbitration proceeding.

Recommendations

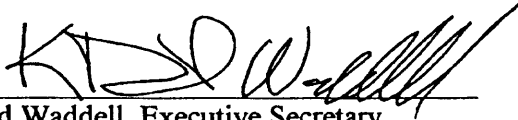
The Pre-Hearing Officer **recommends** that the Directors accept the petition solely for the purpose of establishing arbitration proceedings and appoint Arbitrators. The Pre-Hearing Officer also **recommends** that the Directors appoint a Pre-Arbitration Officer for the purposes of adopting and clarifying issues, establishing a procedural schedule, and for making necessary preparations of the case. Further, the Pre-Hearing Officer **recommends** that the Directors order a mediation/negotiating meeting with respective negotiating teams of the parties and a

representative of this Authority. Each negotiating team should include a representative of the company with the authority to make the decisions necessary to resolve any remaining issues. Finally, the Pre-Hearing Officer respectfully **recommends** that the Authority approve this Report and Recommendation.



Gary Hotvedt, Pre-Hearing Officer

ATTEST:



K. David Waddell, Executive Secretary

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